

EXHIBIT N

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May 4, 2007

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

-----X MDL NO. 1456
IN RE: PHARMACEUTICAL INDUSTRY : CIVIL ACTION:
AVERAGE WHOLESALE PRICE LITIGATION : 01-CV-12257-PBS

-----X
THIS DOCUMENT RELATES TO: :
U.S. ex rel. Ven-A-Care of the : CIVIL ACTION:
Florida Keys, Inc. v. Abbott : 06-CV-11337-PBS
Laboratories, Inc. :
-----X

IN THE CIRCUIT COURT OF
MONTGOMERY COUNTY, ALABAMA

-----X
STATE OF ALABAMA, : CASE NO.
Plaintiff, : CV-05-219
v. :
ABBOTT LABORATORIES, INC., : JUDGE
et al., : CHARLES PRICE
Defendants. :
-----X

Henderson Legal Services
202-220-4158

Vladeck, Ph.D., Bruce C.

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New York, NY

<p style="text-align: right;">Page 2</p> <p>1 STATE OF WISCONSIN CIRCUIT COURT DANE COUNTY</p> <p>2 -----X</p> <p>3 STATE OF WISCONSIN, : CASE NO.</p> <p>4 Plaintiff, : 04-CV-1709</p> <p>5 v. :</p> <p>6 AMGEN INC., et al., :</p> <p>7 Defendants. :</p> <p>8 -----X</p> <p>9</p> <p>10 IN THE COURT OF COMMON PLEAS</p> <p>11 FIFTH JUDICIAL CIRCUIT</p> <p>12 -----X</p> <p>13 STATE OF SOUTH CAROLINA, and : STATE OF</p> <p>14 HENRY D. McMASTER, in his official : SOUTH CAROLINA</p> <p>15 capacity as Attorney General for : COUNTY OF</p> <p>16 the State of South Carolina, : RICHLAND</p> <p>17 Plaintiff, :</p> <p>18 v. : CIVIL ACTION:</p> <p>19 MYLAN LABORATORIES, INC. : 07-CP-40-0283</p> <p>20 Defendant. :</p> <p>21 -----X</p> <p>22</p>	<p style="text-align: right;">Page 4</p> <p>1 IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS</p> <p>2 STATE OF MISSOURI</p> <p>3 -----X</p> <p>4 STATE OF MISSOURI, ex rel., :</p> <p>5 JEREMIAH W. (JAY) NIXON, :</p> <p>6 Attorney General, :</p> <p>7 and :</p> <p>8 MISSOURI DEPARTMENT OF SOCIAL :</p> <p>9 SERVICES, DIVISION OF MEDICAL : Case No.:</p> <p>10 SERVICES, : 054-1216</p> <p>11 Plaintiffs, : Division</p> <p>12 : No. 31</p> <p>13 vs. :</p> <p>14 DEY INC., DEY, L.P., MERCK KGaA, :</p> <p>15 EMD, INC., WARRICK :</p> <p>16 PHARMACEUTICALS CORPORATION, :</p> <p>17 SCHERING-PLOUGH CORPORATION, and :</p> <p>18 SCHERING CORPORATION, :</p> <p>19 Defendants. :</p> <p>20 -----X</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 3</p> <p>1 IN THE COURT OF THE SECOND JUDICIAL CIRCUIT</p> <p>2 IN AND FOR LEON COUNTY, FLORIDA</p> <p>3 THE STATE OF FLORIDA</p> <p>4 ex rel.</p> <p>5 -----x</p> <p>6 VEN-A-CARE OF THE FLORIDA :</p> <p>7 KEYS, INC., a Florida :</p> <p>8 Corporation, by and through its :</p> <p>9 principal officers and directors, :</p> <p>10 ZACHARY T. BENTLEY and :</p> <p>11 T. MARK JONES, :</p> <p>12 Plaintiffs, :</p> <p>13 vs. : Civil Action</p> <p>14 MYLAN LABORATORIES, INC.; MYLAN : No.: 98-3032G</p> <p>15 PHARMACEUTICALS INC.; NOVOPHARM : Judge:</p> <p>16 LTD., SCHEIN PHARMACEUTICAL, INC.; : William L.</p> <p>17 TEVA PHARMACEUTICAL INDUSTRIES : Gary</p> <p>18 LTD., TEVA PHARMACEUTICAL USA; :</p> <p>19 and WATSON PHARMACEUTICALS, INC. :</p> <p>20 Defendants. :</p> <p>21 -----x</p> <p>22</p>	<p style="text-align: right;">Page 5</p> <p>1 New York, New York</p> <p>2 Friday, May 4, 2007</p> <p>3</p> <p>4</p> <p>5 Videotaped Deposition of BRUCE C.</p> <p>6 VLADECK, Ph.D., a witness herein, called for</p> <p>7 examination by counsel for Abbott Laboratories in</p> <p>8 the above-entitled matter, pursuant to Subpoena,</p> <p>9 the witness being duly sworn by JOMANNA DEROSA, a</p> <p>10 Notary Public in and for New York, taken at the</p> <p>11 offices of Jones Day, 222 East 41st Street, New</p> <p>12 York, New York, at 8:38 a.m. on Friday, May 4,</p> <p>13 2007, and the proceedings being taken down by</p> <p>14 Stenotype by JOMANNA DEROSA, and transcribed under</p> <p>15 her direction.</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

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<p style="text-align: right;">Page 74</p> <p>1 A. The New York City Rand Institute was a 2 -- an extremely unsuccessful effort to a joint 3 venture between the Rand Corporation and the City 4 of New York to: 5 "Bring modern system science to 6 problems of urban government." 7 I worked largely in the areas of white 8 collar productively, municipal labor relations, 9 and spent a small amount of time on a health 10 project advising an old charitable organization 11 in New York about the organization and the future 12 of the health services they provided. 13 At Columbia, I was a member of the 14 faculty of the School of Public Health, the 15 faculty of the Department of Political Science 16 after a while, and had an appointment at a 17 research center, the Center For Community Health 18 Systems, which did health services research on 19 urban health problems, and I taught and did 20 research and wrote on issues of health policy and 21 health care. 22 Q. In your positions with the Rand</p>	<p style="text-align: right;">Page 76</p> <p>1 Johnson Foundation, did you have any exposure to 2 reimbursement for drugs? 3 A. No. 4 MS. BROOKER: Objection. Form. Sorry. 5 THE WITNESS: Sorry. 6 Q. Between 1983 and 1993, while you were 7 president of the United Hospital Fund, did that 8 have anything to do with reimbursement for 9 prescription drugs? 10 MS. BROOKER: Objection. Form. 11 A. That did not. Again, the New York AIDS 12 Advisory Council was very much involved in issues 13 of the pricing for AZT and some of the other 14 first generation anti-retro virals. 15 Q. And -- and tell me what was the 16 involvement of the -- you said it was the 17 council? 18 A. The New York State AIDS Advisory 19 Council. 20 Q. The New York State AIDS Advisory 21 Council. What was the involvement of the New 22 York State AIDS Advisory Council and issues of --</p>
<p style="text-align: right;">Page 75</p> <p>1 Institute and with Columbia University, did you 2 have any work involving reimbursement for 3 prescription drugs? 4 A. Not that I'm aware of. I think there 5 were a couple of articles or book reviews or 6 things of that stuff in my early days at Columbia 7 when I was still sort of looking for focus about 8 the drug development process and about FDA 9 regulation of -- of drugs and the drug 10 development process, but not having to do with 11 reimbursement, per se. 12 And as I began to focus more in 13 particular areas after a little while there, I 14 didn't do any work having to do with drugs or 15 drug pricing. 16 Q. Between 1979 and 1982, when you were 17 Assistant Commissioner at the New Jersey State 18 Department of Health, did that position involve, 19 in any way, reimbursement for drugs? 20 A. No. 21 Q. From 1982 to 1983, while you were 22 assistant vice president at the Robert Wood</p>	<p style="text-align: right;">Page 77</p> <p>1 of drug reimbursement and pricing? 2 MS. BROOKER: Objection. Form. 3 A. Primarily to state objections to the 4 level of the prices associated with the drugs, to 5 encourage the FDA to expedite approval of 6 competitor drugs to AZT, and to argue for 7 discounts for the so-called ADAP program, which 8 was a federally funded state-administered program 9 to help finance purchase of anti-HIV drugs for 10 non-Medicaid eligible patients. 11 Q. Now, at some point in 1993 you became 12 administrator of the Health Care Financing 13 Administration. Correct? 14 A. Yes, sir. 15 Q. Generally known by the acronym HCFA? 16 A. That's right. 17 Q. All caps, H-C-F-A. 18 When in 1993 did you become 19 administrator of HCFA? 20 A. I was sworn in in late May. I believe 21 the 22nd of it. 22 Q. And you held that position until 1997?</p>

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1 A. That's correct.
 2 Q. When in 1997 did you resign?
 3 A. My last day in that position was
 4 September 13th, 1997.
 5 Q. Is there any activity, prior to May of
 6 1993, whether professional activity, employment,
 7 in which you had some involvement in or you
 8 studied Medicare or Medicaid reimbursement for
 9 prescription drugs?
 10 MS. BROOKER: Objection. Form.
 11 A. Other than the issues with AIDS drugs
 12 that I've just described, no.
 13 Q. How did you come to be the
 14 administrator for HCFA?
 15 A. Well, I can't entirely answer that
 16 question. I believe I was recommended to
 17 Secretary Shalala by several mutual friends. And
 18 I believe, for a variety of reasons, the White
 19 House in this case deferred to the Secretary for
 20 a recommendation, although not on the final
 21 decision. And then I went through a variety of
 22 vetting processes. I came out the other end.

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1 Q. What were your job responsibilities as
 2 administrator of HCFA?
 3 A. Well, the major responsibilities are
 4 administration of the Medicare and Medicaid
 5 programs. Under the Social Security Act, almost
 6 all the administrative responsibilities are
 7 delegated to the Secretary. Almost all of those
 8 -- for Titles 18 and 19, almost all of those are
 9 redelegated to the administrator.
 10 Q. What are not delegated? That was a
 11 messy question.
 12 What responsibilities for Medicare and
 13 Medicaid administration are not delegated by the
 14 Secretary to the administrator?
 15 A. Well, the --
 16 MS. BROOKER: Objection. Form.
 17 A. -- the -- there is a -- a board of
 18 trustees for the hospital insurance supplementary
 19 medical insurance trust funds, which are
 20 statutory. The HCFA administrator serves as
 21 Secretary to both of those boards. Their only
 22 actual authority is to issue reports, but that's

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1 an issue of some significance.
 2 There are other issues of -- I think
 3 that's -- there are -- there are certain issues
 4 of -- having to do with legal matters that are
 5 assigned directly to the Inspector General, or in
 6 some cases -- and I don't know if this is by law
 7 or regulation or just custom -- our reserve for
 8 the Department of Justice.
 9 So, for example, when the agency is
 10 involved in civil litigation authority to enter
 11 into a settlement, it belongs with the Department
 12 of Justice.
 13 Again, I don't know whether that's
 14 statutory or regulatory. Things of that sort.
 15 Q. To whom did you report as administrator
 16 of HCFA?
 17 A. Secretary Shalala.
 18 Q. I assume that some people reported to
 19 you as well?
 20 A. Yes.
 21 Q. How many?
 22 A. Well, the agency, in its entirety,

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1 employed just over 4,000 people during my period
 2 as administrator. The number of direct reports
 3 was probably 10, plus or minus; 10 to 15,
 4 counting personal staff.
 5 Q. Did you have, personally, much
 6 interaction with the regional offices for HCFA?
 7 A. I tried to, yes.
 8 Q. And how about state Medicaid agencies?
 9 MS. BROOKER: Objection. Form.
 10 A. We met quarterly with the Executive
 11 Committee of the Association of State Medicaid
 12 Directors. I tried to attend at least part of
 13 all those meetings. I also, for reasons ranging
 14 from pre-existing personal relationships to
 15 political sensitivities, had direct
 16 communications from time to time with individual
 17 state Medicaid directors.
 18 In most instances, I had very little
 19 interaction with state Medicaid officials below
 20 the director level.
 21 Q. Would you have any interaction, while
 22 you were administrator of HCFA, with

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<p style="text-align: right;">Page 142</p> <p>1 Q. And for a brand name drug, would you --</p> <p>2 at the time, did you expect that there would be</p> <p>3 much variation between various purchasers based</p> <p>4 upon volume purchases of the brand name drug?</p> <p>5 A. I believe we had a perception that the</p> <p>6 bigger the purchaser, the larger the discount</p> <p>7 they were likely to be able to achieve; that the</p> <p>8 very largest pharmacy chains, for instance, or</p> <p>9 hospital group purchasing operations, probably</p> <p>10 received the most favorable prices, but that that</p> <p>11 would be -- and that some small independent</p> <p>12 pharmacies might actually pay average wholesale</p> <p>13 price as described in the compendia; that there</p> <p>14 would be a range below that in which most of the</p> <p>15 prices would actually occur.</p> <p>16 Q. Turning to generic drugs for a minute,</p> <p>17 what do you understand to be the differences</p> <p>18 between the market for brand name drugs and the</p> <p>19 market for generic drugs?</p> <p>20 MS. BROOKER: Objection. Form.</p> <p>21 A. If we're going back to 1997 --</p> <p>22 Q. Correct.</p>	<p style="text-align: right;">Page 144</p> <p>1 get much more commoditized in a bag of salt water</p> <p>2 in the drug market?</p> <p>3 A. The only quibble I would provide to</p> <p>4 that question is I never really thought of it as</p> <p>5 classically being part of the pharmaceutical</p> <p>6 market. It was such a -- it was really a</p> <p>7 hospital supply kind of market. It was such a</p> <p>8 standard product that even though it was FDA</p> <p>9 regulated and -- and sterility issues were so</p> <p>10 forth, it tended to be -- hospitals tend to stock</p> <p>11 it, for example, in sterile supplies, put it on</p> <p>12 their cost report as part of sterile supplies</p> <p>13 rather than through their pharmacies.</p> <p>14 Q. But a home infusion provider reimbursed</p> <p>15 under Part B, for example, might be reimbursed</p> <p>16 for sodium saline solution.</p> <p>17 Was that your understanding in '97?</p> <p>18 MS. BROOKER: Objection. Form.</p> <p>19 A. Yes, but whether that was as a supply</p> <p>20 or a drug, I honestly couldn't tell you. I would</p> <p>21 have thought of it as a supply.</p> <p>22 Q. Turning to the market of it, whether we</p>
<p style="text-align: right;">Page 143</p> <p>1 A. -- I think it's fair to say that I had</p> <p>2 really only a very limited understanding of the</p> <p>3 marketplace for generic drugs and an even more</p> <p>4 limited understanding of the difference between</p> <p>5 the market for generic drugs and for brand drugs.</p> <p>6 And, again, my perception at the time</p> <p>7 was that that was likely more like a commodity</p> <p>8 market in which there was probably more</p> <p>9 purchasing power on the part of the large</p> <p>10 purchasers, but not the same ability to raise</p> <p>11 prices on the up-side to small purchasers that</p> <p>12 prevailed on the brand name side.</p> <p>13 Q. I'd like to focus you just for a</p> <p>14 minute, before we turn to a specific document,</p> <p>15 about a particular generic drug. I think you</p> <p>16 mentioned commodities. Are you familiar with</p> <p>17 sodium saline solution?</p> <p>18 A. Yes.</p> <p>19 Q. It's a bag of salt water, essentially.</p> <p>20 Correct?</p> <p>21 A. That's correct.</p> <p>22 Q. Would you agree with me that you can't</p>	<p style="text-align: right;">Page 145</p> <p>1 call it a drug or -- or a supply, did you have an</p> <p>2 understanding, in 1997, of what the market would</p> <p>3 look like for a product such as sodium saline</p> <p>4 solution?</p> <p>5 MS. BROOKER: Objection. Form.</p> <p>6 MR. BREEN: Objection. Form.</p> <p>7 A. Yes, I did.</p> <p>8 Q. And what was your understanding?</p> <p>9 A. Well, I actually -- in the 1980s, I</p> <p>10 believe, when I was first becoming involved in</p> <p>11 some of these issues in health care economics was</p> <p>12 the first development of hospital group</p> <p>13 purchasing operations, and I recall -- and the</p> <p>14 first widespread circulation of the -- of "Modern</p> <p>15 Healthcare," the magazine, and I recall monthly</p> <p>16 headlines in "Modern Healthcare" about group</p> <p>17 purchasing operations being -- achieving</p> <p>18 discounts of 98 and 99 percent in their purchase</p> <p>19 of basic infusion products and sterile supplies.</p> <p>20 So, my perception was that on the</p> <p>21 supply market, which, again, I understood and</p> <p>22 still would contend is actually a separate market</p>

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<p style="text-align: right;">Page 146</p> <p>1 from the pharmaceutical market that list prices, 2 are essentially entirely meaningless and that 3 only the weakest and smallest scale buyers pay 4 anything close to it. 5 Q. And so, as of 1993, for example, would 6 you be surprised if a single bag of sodium saline 7 solution sold to a provider who bought maybe five 8 would pay \$10 per bag, and a large purchaser who 9 bought a very large volume would pay less than a 10 dollar? 11 MS. BROOKER: Objection. Form. 12 A. I would not have been surprised. 13 Q. Okay. So, to that extent that -- 14 President Clinton referring to a 10-to-1 ratio is 15 something that would be consistent with your 16 understanding of that particular market. 17 Correct? 18 MS. BROOKER: Objection. Form. 19 Q. I'm sorry. You have to verbalize. 20 A. Again, I would have thought that market 21 was a subset of the supplies market rather than 22 the drug market.</p>	<p style="text-align: right;">Page 148</p> <p>1 A. That would be a question I never 2 thought about before today. But today I would 3 say that we always made the distinction between - 4 - between drugs and -- and supplies. And, again, 5 I would fall back on the Medicare green eyeshade 6 distinction between what's sterile supplies and 7 what's pharmacy. 8 MR. COOK: Let's take a break. 9 THE VIDEOGRAPHER: The time is 11:28 10 a.m. We're going off the record, concluding Tape 11 No. 2 in the deposition of Dr. Bruce Vladeck in 12 the matter of In re Pharmaceutical Average 13 Wholesale Price Litigation. 14 (Recess taken.) 15 THE VIDEOGRAPHER: The time is 11:46 16 a.m. We're going back on the record, starting 17 Tape No. 3 of the deposition of Dr. Bruce Vladeck 18 in the matter of In re Pharmaceutical Average 19 Wholesale Price Litigation. 20 Q. Doctor, based upon what we were talking 21 about just before the break, would it be fair to 22 say that while you were administrator of HCFA,</p>
<p style="text-align: right;">Page 147</p> <p>1 Q. That was my question. But you would 2 have distinguished between the drug market, where 3 10-to-1 would not -- you would not expect to see. 4 Correct? 5 A. That's correct. 6 Q. And the supply market, where sodium 7 saline solution would be found, where there could 8 be a huge variation between a small purchaser 9 purchasing at list price and a very large 10 purchaser purchasing at 99 percent off of list 11 price? 12 MS. BROOKER: Objection. Form. 13 A. I would have made such a distinction, 14 and I would not have been surprised to see those 15 sorts of differentials of the supply market. 16 Q. And in between the commodities supply 17 market of sodium saline and the patent-protected 18 market of a brand name drug, would you expect 19 generic drugs to be somewhere between those two 20 extremes? 21 MS. BROOKER: Objection. Form. 22 MR. BREEN: Objection. Form.</p>	<p style="text-align: right;">Page 149</p> <p>1 you did not understand published average 2 wholesale price to be the average of prices at 3 which wholesalers were selling their drugs to 4 their customers? 5 A. It would -- it would be fair to say 6 that I did not believe it was, in fact, an 7 empirical estimate, that rather it was a -- an 8 amount reported by the manufacturer to -- of the 9 compendium compilers or whatever, yes. 10 Q. And, again, akin to a sticker price? 11 A. That's correct. 12 Q. Where did you get that understanding? 13 A. I believe that was probably what my 14 staff explained to me when I first encountered 15 the concept sometime after I took office. 16 Q. Do you recall anybody within HCFA who 17 was under the belief that average wholesale price 18 was an average of prices at which wholesalers 19 sold drugs to customers? 20 MS. BROOKER: Object to form. And I 21 would just instruct the witness, just, you know, 22 be mindful of not disclosing deliberations,</p>

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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New York, NY

June 21, 2007

<p style="text-align: right;">Page 286</p> <p>1 STATE OF WISCONSIN CIRCUIT COURT DANE COUNTY 2 -----X 3 STATE OF WISCONSIN, : CASE NO. 4 Plaintiff, : 04-CV-1709 5 v. : 6 AMGEN INC., et al., : 7 Defendants. : 8 -----X 9 10 IN THE COURT OF COMMON PLEAS 11 FIFTH JUDICIAL CIRCUIT 12 -----X 13 STATE OF SOUTH CAROLINA, and : STATE OF 14 HENRY D. McMASTER, in his official : SOUTH CAROLINA 15 capacity as Attorney General for : COUNTY OF 16 the State of South Carolina, : RICHLAND 17 Plaintiff, : 18 v. : CIVIL ACTION: 19 MYLAN LABORATORIES, INC. : 07-CP-40-0283 20 Defendant. : 21 -----X 22</p>	<p style="text-align: right;">Page 288</p> <p>1 IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS 2 STATE OF MISSOURI 3 -----X 4 STATE OF MISSOURI, ex rel., : 5 JEREMIAH W. (JAY) NIXON, : 6 Attorney General, : 7 and : 8 MISSOURI DEPARTMENT OF SOCIAL : 9 SERVICES, DIVISION OF MEDICAL : Case No.: 10 SERVICES, : 054-1216 11 Plaintiffs, : Division 12 : No. 31 13 vs. : 14 DEY INC., DEY, L.P., MERCK KGaA, : 15 EMD, INC., WARRICK : 16 PHARMACEUTICALS CORPORATION, : 17 SCHERING-PLOUGH CORPORATION, and : 18 SCHERING CORPORATION, : 19 Defendants. : 20 -----X 21 22</p>
<p style="text-align: right;">Page 287</p> <p>1 IN THE COURT OF THE SECOND JUDICIAL CIRCUIT 2 IN AND FOR LEON COUNTY, FLORIDA 3 THE STATE OF FLORIDA 4 ex rel. 5 -----X 6 VEN-A-CARE OF THE FLORIDA : 7 KEYS, INC., a Florida : 8 Corporation, by and through its : 9 principal officers and directors, : 10 ZACHARY T. BENTLEY and : 11 T. MARK JONES, : 12 Plaintiffs, : 13 vs. : Civil Action 14 MYLAN LABORATORIES, INC.; MYLAN : No.: 98-3032G 15 PHARMACEUTICALS INC.; NOVOPHARM : Judge: 16 LTD., SCHEIN PHARMACEUTICAL, INC.; : William L. 17 TEVA PHARMACEUTICAL INDUSTRIES : Gary 18 LTD., TEVA PHARMACEUTICAL USA; : 19 and WATSON PHARMACEUTICALS, INC. : 20 Defendants. : 21 -----X 22</p>	<p style="text-align: right;">Page 289</p> <p>1 New York, New York 2 Thursday, June 21, 2007 3 4 CONTINUED Videotaped Deposition of 5 BRUCE C. VLADECK, Ph.D., a witness herein, called 6 for examination by counsel for Abbott Laboratories 7 in the above-entitled matter, pursuant to 8 Subpoena, the witness being duly sworn by JOMANNA 9 DEROSA, a Notary Public in and for New York, taken 10 at the offices of Jones Day, 222 East 41st Street, 11 New York, New York, at 8:54 a.m. on Thursday, June 12 21, 2007, and the proceedings being taken down by 13 Stenotype by JOMANNA DEROSA, and transcribed under 14 her direction. 15 16 17 18 19 20 21 22</p>

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<p style="text-align: right;">Page 462</p> <p>1 Q. So, based on your understanding 2 when you were running HCFA, Dr. Vladeck, the state 3 Medicaid people who were designing and 4 administering the reimbursement methodology of the 5 states would have, through HCFA, access to AMP, 6 average manufacturer price, data. Right? 7 MS. BROOKER: Objection. Form. 8 MR. BREEN: Objection. Form. 9 A. In the generic sense that the 10 agencies -- the state agencies that administered 11 Medicaid would have access to it. Whether it was 12 the same people in those agencies who administered 13 the rebate program and made policy about 14 reimbursement policy, I wouldn't know. 15 Q. Okay. But in terms of -- let's -- 16 let's talk in terms of agency, since people might 17 change over time. 18 But the agencies that ran Medicaid 19 in each of the states, which were the agencies 20 responsible for implementing the reimbursement 21 methodologies, those agencies would have access, 22 through HCFA, to AMP data from the states.</p>	<p style="text-align: right;">Page 464</p> <p>1 what they were reimbursing for those drugs. That 2 was entirely possible. Right? 3 MS. BROOKER: Objection. Form. 4 MR. BREEN: Objection. Form. 5 A. It's -- I don't know any reason why 6 it wouldn't be possible. 7 Q. And within your agency, within 8 HCFA, certainly people within HCFA could sit down 9 and compare the AMP data, for example, for Dey's 10 Albuterol, and see what the AMP was and compare 11 what the AWP was. Right? 12 That was -- that was information 13 that they had in the agency? 14 MS. BROOKER: Objection. Form. 15 A. I believe the -- the way we 16 interpreted the confidentiality provisions of the 17 statute was that the people directly involved in 18 the administration of the Medicaid drug rebate 19 program could have chosen to do so, yes. 20 Q. Right. So, somebody in -- in HCFA 21 that was involved with the rebate program could 22 one day look at the AMP for Dey's Albuterol and</p>
<p style="text-align: right;">Page 463</p> <p>1 Right? 2 MS. BROOKER: Objection. Form. 3 A. Yes. 4 Q. So, for example, looking back at 5 Exhibit Dey 022, the one-page sheet that we had 6 that had all the reimbursement basis, the 7 responsible directors of the Medicaid agencies of 8 these -- of each of these states would be able to 9 peruse AMP data and compare that to what they were 10 reimbursing on. Right? 11 MR. BREEN: Objection. Form. 12 MS. BROOKER: Objection. Form. 13 MR. BATES: Objection to form. 14 A. When you talk about "perusing," 15 again, I don't -- I don't know if they'd even be 16 aware that their agencies had it. But if they 17 were, depending on how their agencies were 18 organized, they might very well be. 19 Q. So, it was entirely -- it was 20 entirely possible for the heads of a state 21 Medicaid agency to look at the AMP data on AMP 22 prices and at the same time look at data as to</p>	<p style="text-align: right;">Page 465</p> <p>1 compare it to an AWP for Dey's Albuterol? 2 MS. BROOKER: Objection. Form. 3 A. Presumably, yes. 4 Q. And based on your understanding of 5 AWP and AMP, as you've indicated in the course of 6 this deposition and your prior session, you would 7 expect that the AWP -- there was a spread between 8 the AMP and the AWP. Right? 9 MS. BROOKER: Objection. Form. 10 A. Yes. 11 Q. And that would be because the AMP 12 reported to HCFA would include a number of 13 specified discounts. Isn't that right? 14 MS. BROOKER: Objection. Form. 15 A. I don't know what you mean by 16 "specified discounts," but it was my impression 17 that, again, on average, the AMPs would have been 18 for single-source drugs in the range of 15 to 20 19 percent below the AWP, on average, and, for 20 generic drugs, as I've learned in the course of 21 this proceeding, as much as 25 to 40 percent below 22 AWP, on average.</p>

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<p style="text-align: right;">Page 466</p> <p>1 Q. Well, whatever the spread was, the 2 information was available to people within HCFA to 3 calculate it precisely. Isn't that right? 4 MS. BROOKER: Objection. Form. 5 A. If they had any reason to calculate 6 it precisely. 7 Q. The information was all at HCFA to 8 do that. Right? 9 MR. BREEN: Objection. Form. 10 MS. BROOKER: Objection. Form. 11 A. I guess it was, to the extent it 12 was accurate. 13 MR. ESCOBAR: Thank you. We'll 14 take a break. 15 THE VIDEOGRAPHER: The time is 16 12:32 p.m. We're going off the record, concluding 17 Tape No. 8 in the deposition of Dr. Bruce Vladeck 18 in the matter of In re Pharmaceutical Industry 19 Average Wholesale Price Litigation. 20 (Luncheon recess: 12:32 p.m.) 21 THE VIDEOGRAPHER: The time is 1:38 22 p.m. We're going back on the record, starting</p>	<p style="text-align: right;">Page 468</p> <p>1 A. That's my understanding, yes. 2 Q. Now, was there any provision that 3 you're aware of in any statute or law or anything 4 that told manufacturers that they had to report 5 average wholesale price in a particular way, 6 similar to the way AMP is described? 7 MS. CONNOLLY: Objection to form. 8 A. No. I'm not familiar of specific 9 instructions about reporting AWP. 10 Q. And as far as you know no such 11 instructions existed. 12 A. I don't know of any, no. 13 Q. Now, if you turn to Page 7 of the - 14 - of the agreement itself in Exhibit Dey 023, 15 there's a Section 3 there entitled "Secretary's 16 Responsibilities"? 17 Do you see that? 18 A. Yes. 19 Q. And that section indicates the 20 responsibilities that the Secretary of Health and 21 Human Services has under the agreement? 22 A. Yes.</p>
<p style="text-align: right;">Page 467</p> <p>1 with Tape No. 9. 2 Q. Dr. Vladeck, we're back on the 3 record. 4 Did you discuss your testimony with 5 anyone? 6 A. No. 7 Q. If you go back to Exhibit Dey 023, 8 which is a copy of the rebate agreement? 9 Other than the rebate agreement, 10 are you aware of any other contract or agreement 11 that manufacturers had to enter into in connection 12 with having drugs reimbursed by Medicaid? 13 A. No. 14 Q. And the rebate agreement, is it 15 your understanding that the rebate agreement is 16 entered into by the manufacturer on one side and 17 by the Secretary on behalf of HHS and all the 18 states? 19 A. That's my understanding. 20 Q. So then as far as you understood 21 it, the states and the District of Columbia were 22 actually parties to the agreement.</p>	<p style="text-align: right;">Page 469</p> <p>1 Q. And those responsibilities -- 2 strike that. 3 One of the things that the 4 Secretary had and the manufacturer agreed to were 5 that HHS could survey manufacturers to verify 6 manufacturer prices. Right? 7 MS. BROOKER: Objection. Form. 8 A. That's what it says, yes. 9 Q. During your tenure as the head of 10 HCFA, do you know whether the department went out 11 and did anything to verify the manufacturer prices 12 of any manufacturer? 13 A. I'm not aware of any surveys, no. 14 Q. As far as you know, your agency, 15 HCFA, could have called manufacturers to ask them 16 to tell HCFA exactly how they calculated average 17 wholesale price. You could have done that, right? 18 MS. LIANG: Objection. 19 MS. BROOKER: Objection. Form. 20 A. We certainly could have, yes. 21 Q. Do you know whether HCFA ever did 22 that during the time you were its head?</p>

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